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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,035	08/22/2001	Robert Fish	MATI-203US	9211

23122 7590 12/28/2004

RATNERPRESTIA  
P O BOX 980  
VALLEY FORGE, PA 19482-0980

EXAMINER

SMITH, CREIGHTON H

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/935,035

Applicant(s)

FISH ET AL.

Examiner

Creighton h Smith

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10 is/are allowed.
- 6) ☒ Claim(s) 1-7, 11 and 17 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7, 12-16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 Aug. '02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because applicant has claimed a "receiver . . . to provide an output signal." A receiver only receives information, and some other element, such as a transmitter, must send or deliver or transmit an output signal. For applicant to claim that a receiver provides an output signal is vague and indefinite. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 11, and 17 as understood are rejected under 35 U.S.C. 102(b) as being anticipated by Owens et al.

Owens et al disclose an automobile entertainment device in the form of an automobile radio/digital recording system, col. 1, lines 17-21. Owens' radio system comprises a receiver, a digital recording system, a digital memory, and an actuating means that permits a digital recording of information being broadcast over the radio, or is music being broadcast which the driver wants to record in real time, col. 1, lines 7-12. Owens et al system allows for the playback of content that has been recorded thru the automobile sound system. Owens et al system also comprises a data processor in the form of a Zilog 786C02 microprocessor. Owens et al meets applicant's limitation of a signal index when they disclose a manual pushbutton for recording functions, claim 6.

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In claim 3, Owens discloses that their receiver is connected to the memory thru the circuit of Fig. 2, so that when the user manually pushes the button to record certain content, the receiver receives the push button command and channels the content that the user wishes to record to the memory for recording. For claim 6, Owens et al disclose a voice recognition DSP processor (70).

Claims 2-5, 7, 12-16 & 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 8-10 are allowed. Owens et al do not disclose 1st and 2nd tuning devices.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Novak, Luzzatto et al, Fish et al, Xie show the state of the art.

Any inquiry concerning this communication should be directed to Creighton h Smith at telephone number 308-2488.

A handwritten signature in black ink, appearing to read "Creighton h Smith", with a stylized flourish at the end.

Creighton h Smith  
Primary Examiner  
Art Unit 2645

21 December '04